GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Lands – Visakhapatnam District – Allotment of Government land measuring an extent of 1.50 cents in Sy .No. 191/10 to 191/14 in Paradesipalem village in Visakhapatnam Rural Mandal of Visakhapatnam District in favour of Managing Director M/s Aamoda Publications Pvt. Ltd., Visakhapatnam District – Certain discrepancies noticed – Detailed report received from District Collector, Visakhapatnam – Cancellation of the land alienated in G.O.Ms.No.251, Revenue (Assign-II) Department, dated.28-06-2017 – Orders - Issued.

REVENUE (LANDS-I) DEPARTMENT

G.O.Ms.No.21 Dated:30.01.2020

Read the following:

1. G.O.Ms.No.251, Revenue (Assign-II) Department, dated 28-06-2017.
2. Note received from the Additional Secretary to CM, CMP No.504/ Addl.Secy/2019, Dated:29-09-2019 along with the representation of Sri P.Srihari Reddy,Kummari Street, Allipuram, Visakhapatnam, dated:28-09-2019.
3. Govt. Memo No.LANA0LAND/342/ASSGN-II(1)/2019 dated 03-10-2019.
4. The District Collector, Visakhapatnam Rc.No.205044/2019/E2, dated.09-10-2019.
5. Council of Ministers Resolution No.371/2019, dated.17-10-2019.
6. Government Memo No.21021/117/Assignment-II(1)/2016,dt.29-10-2019.
7. Hon'ble High Court Orders of the in W.P.No.16183 of 2018, dated 17.10.2019 filed by M/s.Aamoda Publications Pvt. Ltd., represented by its Branch Manager O/o. Andhrajyothi Buildings, Vijayawada.
8. Government Memo No.21021/117/Assignment-II(1)/2016,dt.23-12-2019.
9. The District Collector, Visakhapatnam, Rc.No.2061/ 2014/E2, dt.09-01-2020.

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ORDER:-

In the reference 1st read above, Government have issued orders for alienation of land to an extent of Ac.1.50 cents in Sy.Nos.191/10 to 191/14 of Paradesipalem Village, Visakhapatnam Rural Mandal in favour of M.D., M/s. Aamoda Publications Pvt. Ltd., Visakhapatnam for construction of Office building on payment of Market Value @ Rs.10,000/- per acre to an extent of Ac.0.50 cents and @ Rs.50.00 lakhs per acre to an extent of Ac.1.00 cents subject to the following conditions in addition to the conditions under BSO-24 and G.O.Ms.No.571, Revenue (Assn.I) Department, dated: 14.09.2012:

i. The land shall be utilized for the purpose for which it is allotted within three years of the orders of alienation.

ii. The alienee shall submit an annual report before 31st March on the progress of utilization to the District Collector.

iii. The District Collector shall be authority to cancel and resume the land from the allottee for violation of conditions as well as for non-utilization of land.

iv. The water bodies if any existing in the land should not be disturbed and should be allowed to continue their natural course.

v. The existing roads/rastas should not be disturbed.

2. In the reference 2nd read above, one Sri P.Srihari Reddy, Kummari Street, Allipuram, Visakhapatnam has submitted to Government that certain discrepancies have been noticed in allotment of Government land measuring an extent of Ac. 1.50 cents in Sy.No.191/10 to 191/14 in Paradesipalem Village in Visakhapatnam Rural Mandal of Visakhapatnam District in favour of M/s. Amoda Publications Pvt. Ltd, Visakhapatnam and requested to intervene in the matter and take immediate steps to cancel the G.O.Ms.No.251, Revenue (Assn.II) Department, dated.28.06.2017 and protect the Government land in the interest of public purpose. Accordingly, the District

Collector, Visakhapatnam vide reference 3rd read above has been requested to enquire and furnish a detailed report in the matter.

3. In the reference 4th read above, the District Collector, Visakhapatnam has reported that, the RDO, Visakhapatnam has stated that the alienee has not brought the alienated land into utilization so far as there are no structures on the ground. The Government recently announced the flagship "Navaratnalu-Pedalandaraki Illu–House Sites Programme" in which, the urban homeless weaker section households would be provided housing by the Government. A survey was conducted to assess the number of beneficiaries who are in need of housing under this programme. Further, submitted that nearly 2,00,000 eligible applications from the Urban Poor Homeless households have been received for grant of housing. The Government decided to go for group housing for the beneficiaries in the urban areas, by constructing G+3 residential buildings in various parts of the Greater Visakhapatnam Municipal Corporation (GVMC) area. The availability of Government lands in the GVMC area for this programme is very limited and the cost of private land acquisition is prohibitively expensive. The lands in question fall in the GVMC area and would be extremely useful for taking up the construction of Group Housing for the weaker section households". Accordingly, the District Collector has requested the Government to examine the matter and take further action as deemed appropriate.

4. Further, in the reference 5th read above, Government have decided to cancel the Government orders issued in G.O.Ms.No.251, Revenue (Assn.II) Department, dated.28.06.2017 for alienation of land to an extent of Ac.1.50 cents in Sy.No.191/10 to 191/14 in Paradesipalem Village of Visakhapatnam Rural Mandal of Visakhapatnam District in favour of M/s.Aamoda Publications Pvt. Ltd., Visakhapatnam District for construction of Office building and to utilise the same for public purpose.

5. In the reference 6th read above, Government have issued Instructions to the District Collector, Visakhapatnam to take immediate action for resumption of land an extent of Ac 1.50 cents in Sy.No.191/10 to 191/14 in Paradesipalem Village of Visakhapatnam Rural Mandal of Visakhapatnam District alienated in favour of MD, M/s.Aamoda Publications Pvt. Ltd., Visakhapatnam District vide G.O.Ms.No.251, Revenue (Assn.II) Department, dated.28.06.2017 to utilise the same for public purpose after giving reasonable opportunity to the alienee to offer explanation and duly following the procedure established under law.

6. Meanwhile, vide reference 7th read above, the Hon'ble High Court in its order dated.17-11-2019 in W.P.No.16183 of 2018 filed by M/s Aamoda Publications Pvt. Ltd., directed the respondents not to disposess the petitioner from the subject land without following the procedure established under law.

7. In the reference 8th read above, the District Collector, Visakhapatnam has been directed to examine the matter and furnish a detailed report to Government for taking further action in the matter.

8. Accordingly in the reference 9th read above, the District Collector, Visakhapatnam has submitted detailed report that a notice has been issued to the M/s Aamoda Publications Pvt. Ltd., stating that the Government intends to resume the land alienated to them and requested to offer explanation if any. In response to the said notice, Sri K. Rama Krishna Rao, Branch Manager, Aamoda Publications Pvt. Ltd., Visakhapatnam has attended for hearing on 04.01.2020 before the District Collector, Visakhapatnam and submitted following written arguments:

1. 'Andhrajyothy' was originally allotted Ac.1.50 cts of land in Sy.No168 of Paradesipalem village, Visakhapatnam Rural Mandal for the construction of office building way back in 1986 and the possession of the same was also handed over to it. Ever since the said allotment, it has been in continuous possession and enjoyment of the said land.

2. That out of the said allotted land, Ac.1.00 cents of land was acquired by the National Highway Authority of India for formation of NH5 and it was left with only Ac.0.50 cents of land. In the said acquisition, neither the compensation was paid nor was an alternative land was allotted in lieu of land lost. Therefore, it

submitted representation to the authorities seeking allotment of the land adjoining the remaining Ac.0.50 cents.

3. Pursuant to the request made by the agency (i.e. Aamoda Publication Pvt.Ltd. herein), the District Collector, Visakhapatnam submitted alienation proposals to an extent of Ac.1.50 cents in Sy.No.191/10 to 191/14 of Paradesipalem village for construction office building on payment of the prescribed market value. The agency has paid Rs.50,00,000/- for the additional Ac.1.00 cents land allotted to them and the state Government have ordered for the alienation of the said land for the above stated purpose issued G.O.Ms.No.251, dt:28.06.2017.

4. Accordingly, as per the above alienation order issued by the Government, the District Collector, Visakhapatnam issued Proceedings in Rc.No.2261/2014/E2/dt:23.08.2017 directing handing over of possession of the said land to the agency (i.e., Aamoda Publication Pvt. Ltd. herein). The land was thereafter handed over to the agency on 30.08.2017 in the presence of the Mandal Revenue Inspector, Visakhapatnam (Rural), Special Surveyor, Visakhapatnam (Rural), who also issued a Delivery Receipt.

5. Ever since such delivery, they (Aamoda Publication Pvt. Ltd. herein), have been in continuous and uninterrupted possession of the entire extent of Ac.1.50 cts. The subject land was classified as hill poramboke and therefore for the purpose of construction of our office building, after obtaining necessary permissions from the Mining Department and other concerned departments and after paying the requisite fee to the Government, got removed the hill, the debris and waste in the land, by incurring huge expenditure of about three crore rupees (3,00,00,000/-), got the land readied and made it suitable for construction of building. Fee of Rs.30,00,000/- (rupees Thirty Lakhs Only) was paid to the Mining Department alone. After the 2019 general elections there is a change in ruling dispensation in the state. The incumbent government expected the Andhra Jyothi Telugu Daily to toe its line. Keeping in view the welfare of the people and state in its mind, it continued to focus on the problems being faced by the people in its daily columns which is not palatable to the powers that be, boring grudge against the same the cabinet took a decision to cancel the allotted land to us on 16.10.2019 and the same was briefed to the media. Consequent to the cabinet decision the authorities tried to interfere with our possession over the land, then we approached the Hon'ble Court of Andhra Pradesh by filling W.P.No.16183 of 2019 and this Hon'ble Court was pleased to allow the writ petition vide order dt:17.10.2019 directing the authorities not to dispossess us without following procedure established under law. Thereafter the present impugned notice was issued to deprive us of the land which was allotted for the purpose of constructing office building under the garb of public purpose. We have not violated any condition of allotment and we also paid the requisite amount towards the allotment of the subject land. Further, the land was allotted to them in terms of G.O.Ms.No.571 dated 14.09.2012, which also contemplates a procedure for resumption of the land. In view of these facts, the land allotted to the agency (i.e. Aamoda Publication Pvt. Ltd. herein), cannot be resumed. Further, the agency in the written statement also stated that, the District Collector, Visakhapatnam issued the impugned notice dated 25.11.2019 stating that the Government proposes to resume the said land for public purpose under Board Standing Order 24 (6)(3) and as per the conditions stipulated in G.O.Ms.No.251 dated 28.06.2017 and directed the petitioner to submit response within (10) days.

6. It is also stated in the written statement by the agency (i.e., Aamoda Publication Pvt. Ltd. herein) that the Government issued the impugned notice under Order 24 (6)(3) and it reads as under:

"The Government may resume the land wholly or in part, with any buildings thereon, if in the opinion of the Government the land is required for a public purpose or for conducting mining operations. In the event of such resumption or in the event if the acquisition of the land for any reason, the compensation payable for the land and trees shall in no case exceed the amount paid for them by the grantee or their value at the time of resumption or acquisition whichever may be less." For the purpose of reading this provision, it is imminent to understand the term 'Public purpose'. This term has time and again been explained by various courts. Any purpose which directly benefits the public or a section ofthe public is public purpose. The concept of "public purpose" necessarily implies that it should be a law for the acquisition or requisition of property in the interest of the general public and the purpose of such a law

directly and vitally sub serves public interest. The expression “public purpose” would, however, include a purpose in which the general interest of the community, as opposed to the particular interest of individuals, is directly and vitally concerned. The Dissemination of information and helping the society to form opinions for making sound decisions by the media is for public purpose only. The land which has been allotted for public purpose shall not be resumed to re allot the same for another under the garb of public purpose. The ministers of the incumbent government have been conducting regular press briefings to bash Andhra Jyothi for publishing articles highlighting the burning problems faced by the people and minister announced about the cabinet decision to cancel the land allotted to Andhra Jyothi. The incumbent government has taken a decision to cancel the land allotted for construction of office building much prior to the issuance of the impugned show cause notice and the issuance of show cause notice for the resumption of petition schedule land under the garb of public purpose is a mere formality. In this case the authority wants to exercise power maliciously motivated by animosity towards the petitioner. The well considered decision of the allotment of land for public purpose by the earlier government shall not be rolled back, “In the matter of governance of a State or in the matter of execution of a decision taken by previous Government, on the basis of a consensus arrived at, which does not involve any political philosophy, the succeeding Government must be held duty-bound to continue and carry on the unfinished job rather than putting a stop to the same.” The Andhra Pradesh Board of Revenue Standing Orders are only administrative instructions, issued by the Board of Revenue from time to time to regulate internal administration and they do not have any statutory force. In other words, the Standing Orders are not statutory instruments and they do not have force of law. Hence the authority has no jurisdiction to resume the land by invoking BSO 26(4). We have been utilising the land for the purpose for which it has been allotted. If a power is granted by the law to an authority for a specific purpose, then such a power should be exercised only for achieving such purpose and if the power is used for any other purpose, such an action should be held to be ultra vires of the law. The land has been allotted to us for the purpose of construction of office building of the news paper, which is for a public purpose and we have not violated anycondition of the allotment and the same shall not be resumed under the garb of another public purpose.

Hence, the agency (i.e. Aamoda Publication Pvt. Ltd. herein) in the written statement requested to withdraw the notice dated 25.11.2019 as the same is issued without jurisdiction and ultra-vires of the law.”

9. Further, the District Collector, Visakhapatnam in his report also stated that, the Revenue Divisional Officer, Visakhapatnam has submitted his remarks against the explanation of M/s Aamoda Publications Pvt. Ltd., as detailed below:

Remarks against point No.1:- It is not true to say that the Andhra Jyothi is in continuous possession of Ac.1.50 cts of land since 1986 because, continuous possession should be established by entries in the adangals or on ground possession by erecting some structure for which the said land was alienated. Hence, continuous possession and enjoyment of the land since 1986 is not established. Further, no valid documents were submitted by the alienee supporting their claim. Asseen from incorporations in the 8A register there is no mention of Andhrajyothi press against S.No.168 of Paradesipalem village, Visakhapatnam Rural mandal.

Remarks against point 2:- As seen from the proceedings of the Competent Authority and Special Deputy Collector, L.A., N.H-5, Visakhapatnam dt.20/08/2002 of Paradesipalem Village, in alignment S.No.168/2, an extent of Ac.4.35 cts of Government land was covered. There was no mention of any objection from the alienee. If the alienee was in continuous possession, they might have produced the documents at that time and would have claimed relief for their loss.

Remarks against point 3:- By misrepresenting the facts, the M/s Aamoda Publications Pvt. Ltd. obtained the alienation orders. The organization has misrepresented the facts before the then District Collector, Visakhapatnam stating
that ‘Andhra Jyothi’ was allotted Government land for an extent of Ac.1.50 cts for construction of office building and Ac.1.00 cts was got acquired by the NH-5. There is no evidence to show that the land was allotted to this organization in the year 1986.

Remarks against point 4:- It is fact that the orders were got issued by the District Collector, Visakhapatnam vide Rc.No.2261/2014/E2/dt:23.08.2017, accordingly the land

was handed over to the M/s Aamoda Publications vide Rc.No.595/2014/A/ dt:30.08.2017 of the Tahsildar, Visakhapatnam Rural. It proves that there is no 'possession' of the subject land with M/s Aamoda Publications prior to 2017.

Remarks against point 5:- Government has every power to resume Government land at any point of time for the public purpose under provisions of BSO 24(6)(3). In the G.O.Ms.No.251, it is clearly mentioned that the said land was allotted subject to the certain conditions in addition to the conditions under BSO 24.

10. Finally, the District Collector, Visakhapatnam while submitting the above detailed report and as per factual matrix of the issue, requested the Government to take appropriate decision in the matter under BSO 24(6)(3) as provided for in G.O.Ms.No.251, Revenue (Assn. II) Department, dated 28.06.2017.

11. On verification of the connected records and report submitted by the District Collector, Visakhapatnam, the following discrepancies/lapses have been noticed in the matter:

i. The proposal was initiated based on the xerox copies without verifying the genuineness of the records pertaining to the earlier allotment on the pretext that no file has traced out in Collectorate.

ii. Land acquisition for widening national high way was done in the year 2005, but after lapse of (9) years in the year 2014 M/s Aamoda Publications has filed representation in the year 2014 for alienation of alternate land in lieu of the land said to have been lost in widening of National high Way in the year 2005.

iii. Even at the time of Land Acquisition, the name of the "Andhra Jyothi Press" was not found place in Revenue Records like adangal, I-B, web land etc. Hence the orders in the year 1986 of the then District Collector allotting the land for an extent of Ac.1.50 cts in favour of "Andhra Jyothi Press" seem to be doubtful.

iv. The earlier land said to be allotted was in favour of "Andhra Jyothi Press" but not in favour of Aamoda Publications. But, Aamoda publication has got alienated an extent of Ac.1.50cts of land in his favour for throw away price by misleading the District Administration and Government by submitting the Xerox copies of the orders issued in 1986.

v. Aamoda Publication came into existence only in the year 2002 as per the public document while it claimed allotment in the year 1986.

12. The land was alienated to the alienee subject to certain conditions in addition to the conditions under BSO-24 and in terms of G.O.Ms.No. 571, Revenue (Assn.I) Department, dated: 14.09.2012 vide G.O.1st cited.

13. As per the provisions of B.S.O. 24. 6. (3), the Government may resume the land wholly or in part, with any buildings thereon, if in the opinion of the Government the land is required for a public purpose or for conducting mining operations. In the event of such resumption or in the event of the acquisition of the land for any reason, the compensation payable for the land and trees, shall in no case exceed the amount paid for them by the grantee or their value at the time of resumption or acquisition whichever may be less.

14. Therefore, in the circumstances reported by the District Collector, Visakhapatnam in the reference 9th read above and after careful examination of the entire matter, the Government hereby order for cancellation of allotment of Government land to an extent of Ac.1.50 cents (one acre fifty cents only) in Sy.No.191/10 to 191/14 in Paradesipalem Village in Visakhapatnam Rural Mandal of Visakhapatnam District alienated in favour of M/s.Amoda Publications Pvt. Ltd, Visakhapatnam District for construction of Office building vide G.O.1st cited, as the Government decided to utilize the same for public purpose.

15. Further, the District Collector, Visakhapatnam is directed to resume the land duly following the procedure laid down in rules.

16. The District Collector, Visakhapatnam is directed to return the market value amount paid by the alienee towards allotment of Ac.1.50 cts land duly following the procedure & rules laid down in B.S.O 24.6 (3) and under proper acknowledgement.

17. The District Collector, Visakhapatnam shall take further necessary action and report compliance in the matter immediately, to Government.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

V.USHARANI
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, Visakhapatnam.
Copy to:
The Special Chief Secretary & Chief Commissioner of Land Administration, A.P., Vijayawada.
The Managing Director, M/s. Amoda Publications Pvt. Ltd, Visakhapatnam District.
The PS to Principal Advisor to Hon'ble C.M.
The PS to Addl. Secretary to Hon'ble C.M
The OSD to Hon'ble Dy.C.M.(Rev.)
The PS to Chief Secretary.
The PS to Principal Secretary, Revenue (lands) Dept.,
The G.A (Cabinet) Department (w.r.t. Council of Ministers Resolution No.371/2019, dated.17-10-2019)
SF/SC

//FORWARDED:BY ORDER//

SECTION OFFICER